

REMARKS

The Office Action dated February 21, 2006 has been received and reviewed. This response is directed to that action.

Claims 1-17 are pending. Claims 6-13 and 15-17 have been withdrawn. Claims 2, 4 and 14 have been amended. Claims 1 and 3 have been cancelled.

Based on the foregoing amendments and the following remarks, applicants respectfully request that the Examiner withdraw the rejections and allow this case to proceed to issue.

Claim Rejections- 35 U.S.C. §102

The Examiner rejected claims 1-5 and 15 under 35 U.S.C. §102(b) as anticipated by Van Gestel (1988) and also by Heykants (1975). Both references are found in the STN International, HCAPLUS database. The Examiner stated that Van Gestel discloses an imidazole carboxylic acid ester derivative (formula I) wherein R¹ is C₂ alkyl (ethyl), R² is alkyl (methyl) and X is halogen (Br or F). The Examiner stated that Heykants also discloses an imidazole carboxylic acid ester derivative (formula I) wherein wherein R¹ is C₁ alkyl, R² is alkyl (methyl) and X is a halogen. The Examiner stated that both Van Gestel and Heykants anticipate the formulas disclosed in claims 1-5 and 14.

The present invention now relates to a imidazole carboxylic acid ester derivative wherein the X substituent is a radioactive halogen selected from the group consisting of ¹²³I, ¹²⁴I, ¹²⁵I, ¹³¹I, ⁷⁶Br, ⁸²Br or ¹⁸F. Moreover, the position of the halogen is now shown in the para, or 4-position

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of the phenyl ring. Applicants submit that a *prima facie* case of anticipation cannot be established because neither Van Gestel nor Heykants disclose all of the limitations of the present claims.

Although Van Gestel teaches a compound where the halogen can be bromine or fluorine, and located at the 2 or 4 position, there is nothing in Van Gestel that shows that the halogen is radioactive. Moreover, there is nothing in Van Gestel that would even suggest that the halogen can be radioactive.

Heykants discloses a very different compound. Notably, Heykants describes a non-radioactive compound wherein the halogen is chlorine, and is located at the 2-position of the ring. In fact, chlorine has not suitable isotopes for a clinical application of the present invention. Clearly, then, Heykants does not anticipate the present invention.

Based on the foregoing amendments and remarks, applicants submit that the present claims are not anticipated by the cited references. Accordingly, applicants respectfully request that the Examiner withdraw the rejections and allow this case to proceed to issue. If any issues remain, the resolution of which may be resolved through a telephone conference, the Examiner is invited to contact the applicant's attorney at the number listed below.

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CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefore. The Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

ADDITIONAL FEES

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,

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